

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	Criminal No. 1:05-cr-10226 RWZ
)	
)	
V.)	
)	
)	
SAMNANG AM)	

SECOND MOTION TO CONTINUE SENTENCING

Defendant Samnang Am, by and through his undersigned attorney, moves this Honorable Court to continue his sentencing now scheduled for September 6, 2007.

As grounds for this motion the defendant's counsel states that the defendant has a motion for a new trial pending in the Lynn Juvenile Court, which is currently scheduled for a hearing on October 18, 2007. Should the new trial motion be granted in the Lynn Juvenile Court, it would have a significant impact upon the defendant's sentence. Most importantly, he would not qualify as in Armed Career Criminal and not be subject to a 15 year minimum mandatory sentence. Assistant United States Attorney Lisa Asiaf and defense counsel have conferenced this matter, and she assents to the continuance of this matter for a reasonable period of time in order to avoid any need for resentencing of the defendant pursuant to 18 U.S.C. Section 2255.¹

The Lynn Juvenile Court will most likely be unable to produce Mr. Am for hearing since he is in federal custody. The defendant will therefore move to have Mr. Am's

¹ The date for this hearing was scheduled on August 29, 2007.

deposition taken pursuant to state court rules of criminal procedure. It is therefore important to have Mr. Am available for his deposition, which he may not be, if he is sentenced and designated to a federal facility out of the state of Massachusetts.

The defendant,
SAMNANG AM

By his attorney,

‘/s/Walter H. Underhill, Esquire’
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Boston, MA
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RULE 7.1 CERTIFICATION

The parties have had an opportunity to confer on this motion and the motion is assented to by the attorney for the Government, Lisa Asiaf.

SIGNED: ‘/s/Walter H. Underhill, Esquire’

DATE: September 4, 2007

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

SIGNED: ‘/s/Walter H. Underhill, Esquire’
WALTER H. UNDERHILL, ESQ.

DATE: September 4, 2007